

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
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CHAPTER 83

HOUSE BILL 2626

AN ACT

AMENDING SECTION 11-830, ARIZONA REVISED STATUTES; RELATING TO AGGREGATE
MINING OPERATIONS RECOMMENDATION COMMITTEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-830, Arizona Revised Statutes, is amended to
3 read:

4 11-830. Restriction on regulation; exceptions; aggregate mining
5 regulation; definitions

6 A. Nothing contained in any ordinance authorized by this chapter
7 shall:

8 1. Affect existing uses of property or the right to its continued use
9 or the reasonable repair or alteration thereof for the purpose for which used
10 at the time the ordinance affecting the property takes effect.

11 2. Prevent, restrict or otherwise regulate the use or occupation of
12 land or improvements for railroad, mining, metallurgical, grazing or general
13 agricultural purposes, if the tract concerned is five or more contiguous
14 commercial acres. For the purposes of this paragraph, "mining" has the same
15 meaning prescribed in section 27-301.

16 3. Prevent, restrict or otherwise regulate the use or occupation of
17 land or improvements for agricultural composting, if the tract is five or
18 more contiguous commercial acres. An agricultural composting operation shall
19 notify in writing the board of supervisors and the nearest fire department of
20 the location of the composting operation. If the nearest fire department is
21 located in a city, town or fire district where the agricultural composting is
22 not located, the agricultural composting operation shall also notify in
23 writing the fire district in which the operation is located. Agricultural
24 composting is subject to the provisions of sections 3-112 and 49-141. For
25 the purposes of this paragraph, "agricultural composting" has the same
26 meaning prescribed in section 9-462.01, subsection G.

27 B. A nonconforming business use within a district may expand if such
28 expansion does not exceed one hundred per cent of the area of the original
29 business.

30 C. For the purposes of subsection A, paragraph 2 of this section,
31 mining does not include aggregate mining operations in an aggregate mining
32 operations zoning district established pursuant to this section. The board
33 of supervisors of any county with a population of more than two million
34 persons shall designate and establish the boundaries of an aggregate mining
35 operations zoning district on the petition of at least one hundred persons
36 who reside within one-half mile of an existing aggregate mining operation.
37 In addition, the board of supervisors of any county may establish, in its
38 discretion and on the board's initiative, one or more aggregate mining
39 operations zoning districts. Aggregate mining operations zoning districts
40 may only be located in areas that are inventoried and mapped as areas of
41 known reserves or in areas with existing aggregate mining operations.
42 Subject to subsections E and F of this section, a county and the state mine
43 inspector may jointly adopt, as internal administrative regulations,
44 reasonable aggregate mining operations zoning district standards limited to

1 permitted uses, procedures for approval of property development plans and
 2 site development standards for dust control, height regulations, setbacks,
 3 days and hours of operation, off-street parking, screening, noise, vibration
 4 and air pollution control, signs, roadway access lanes, arterial highway
 5 protection and property reclamation for which aggregate mining operations are
 6 not otherwise subject to federal, state or local regulation or a governmental
 7 contractual obligation. Regulations jointly adopted pursuant to this
 8 subsection by the county and the state mine inspector shall not prohibit the
 9 activities included in the definition of mine pursuant to section 27-301,
 10 paragraph 8 or duplicate, conflict with or be more stringent than applicable
 11 federal, state or local laws.

12 D. The board of supervisors of any county that establishes an
 13 aggregate mining operations zoning district shall appoint an aggregate mining
 14 operations recommendation committee for the district. The committee shall
 15 consist of not more than seven operators, or representatives of operators, of
 16 active aggregate mining operations in any district within the county and an
 17 equal number of ~~property owners~~ PRIVATE CITIZENS, who are not operators, who
 18 are not employed by operators and who do not represent operators, residing
 19 within ~~one mile~~ THREE MILES of the boundaries of aggregate mining operations
 20 or a proposed aggregate mining operation in the district for which the
 21 committee is established. THE INITIAL MEMBERS APPOINTED TO THE COMMITTEE
 22 SHALL BE DEEMED THE PRIMARY MEMBERS AND THE BOARD OF SUPERVISORS SHALL
 23 APPOINT NO MORE THAN FIVE ALTERNATE MEMBERS WHO REPRESENT OPERATORS AND SHALL
 24 APPOINT NO MORE THAN FIVE ALTERNATE MEMBERS WHO ARE PRIVATE CITIZENS.
 25 ALTERNATE MEMBERS MAY SERVE AT MEETINGS OF THE COMMITTEE WHEN A PRIMARY
 26 MEMBER IS UNABLE TO ATTEND. An aggregate mining operator may serve on more
 27 than one committee in the same county. The board of supervisors shall
 28 determine the length of terms of members of the committee and shall stagger
 29 the initial appointments so that not all members' terms expire at the same
 30 time. Members of the committee who no longer qualify for membership as
 31 provided by this subsection are subject to removal and replacement by the
 32 board of supervisors. The committee shall elect a member who is an aggregate
 33 mining operator to serve as chairman for the first year in which the
 34 committee is created. For each year thereafter, the chairman shall be
 35 elected by the members of the committee with a member who is a ~~property owner~~
 36 PRIVATE CITIZEN and a member who is an aggregate mining operator serving as
 37 chairman in alternate years. The committee is subject to the open meeting
 38 requirements of title 38, chapter 3, article 3.1.

39 E. Within ninety days after an aggregate mining operations
 40 recommendation committee is established, it shall notify all existing
 41 aggregate mining operators in the district of the application of this section
 42 and title 27, chapter 3, article 6 to the aggregate mining operation. In
 43 addition, the committee shall:

1 1. By a majority vote of all members make recommendations to the board
2 of supervisors for aggregate mining zoning districts and administrative
3 regulations as provided in this section. The board of supervisors may adopt
4 or reject such recommendations but may not make any modifications to the
5 recommendations unless such modification is approved by a majority of the
6 members of the recommendation committee.

7 2. Serve as a forum for mediation of disputes between members of the
8 public and aggregate mining owners or operators. If the committee is unable
9 to resolve a dispute, the committee shall transmit the matter to the state
10 mine inspector, with written findings and recommendations, for further
11 action.

12 3. Hear written complaints filed with the state mine inspector
13 regarding alleged material deviations from approved community notices for
14 aggregate mining operations and make written recommendations to the state
15 mine inspector pursuant to section 27-446.

16 F. Any administrative regulations adopted by a board of supervisors
17 pursuant to this section shall not be effective until they are approved by
18 the state mine inspector. The inspector may disapprove the administrative
19 regulations adopted by the board of supervisors only if they duplicate,
20 conflict with or are more stringent than applicable federal, state or local
21 laws, rules or regulations. If the inspector disapproves the administrative
22 regulations, the inspector must provide written reasons for the disapproval.
23 The inspector shall not make any modification to the administrative
24 regulations as adopted by the board of supervisors unless the modification is
25 approved by a majority of the members of the board of supervisors.

26 G. A person or entity is subject to the provisions of this chapter if
27 the use or occupation of land or improvements by the person or entity
28 consists of or includes changing, remanufacturing or treating human sewage or
29 sludge for distribution or resale. These activities are not exempt from this
30 chapter under subsection A, paragraph 2 of this section.

31 H. A county shall not require as a condition for a permit or for any
32 approval, or otherwise cause, an owner or possessor of property to waive the
33 right to continue an existing nonconforming outdoor advertising use or
34 structure without acquiring the use or structure by purchase or condemnation
35 and paying just compensation unless the county, at its option, allows the use
36 or structure to be relocated to a comparable site in the county with the same
37 or a similar zoning classification, or to another site in the county
38 acceptable to both the county and the owner of the use or structure, and the
39 use or structure is relocated to the other site. The county shall pay for
40 relocating the outdoor advertising use or structure including the cost of
41 removing and constructing the new use or structure that is at least the same
42 size and height. This subsection does not apply to county rezoning of
43 property at the request of the property owner to a more intensive zoning
44 district.

- 1 I. For THE purposes of this section:
- 2 1. "Aggregate" has the same meaning prescribed in section 27-441.
- 3 2. "Aggregate mining" has the same meaning prescribed in section
- 4 27-441.
- 5 3. "Aggregate mining operation" means property that is owned, operated
- 6 or managed by the same person for aggregate mining.
- 7 4. "Operators" means persons who are actively engaged in aggregate
- 8 mining operations within the zoning district or proposed zoning district and
- 9 who have given notice to the state mine inspector pursuant to section 27-303.

APPROVED BY THE GOVERNOR APRIL 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2007.